

Costs Decision

Hearing and site visit held on 28 June 2016

by A U Ghafoor Bsc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 05 December 2016

Costs application in relation to Appeal Ref: APP/H1515/W/16/3142748 Wenlocks Meadow, Wenlocks Lane, Blackmore, Essex CM4 0JS

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Bookerstein for a full award of costs against Brentwood Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for change of use from agriculture to residential, stationing of one mobile home for a gypsy without complying with a condition attached to planning permission Ref BRW/867/2000, dated 14 February 2003 by Appeal Ref: APP/H1515/A/01/1056266.
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Decision

1. The application for an award of costs is refused.

The submissions for the Appellant

2. The following key points form the basis of this application. The Council should have granted planning permission because other material considerations indicate very special circumstances exist. There is no five-year supply of sites for gypsies and travellers. There is a significant unmet need. There are personal circumstances of the Appellant. This appeal could have been prevented had the Council applied the correct balancing approach to other considerations. The Council did not respond to The Planning Inspectorate's letter requesting details of gypsy and traveller provision in the area. It failed to provide relevant information contained in the accommodation needs assessment for travellers.

The response by the Council

3. Planning permission¹ was granted on 14 February 2003 for the residential caravan use of the appeal site (the 2003 permission). The previous Inspector found the personal circumstances pivotal to his decision to grant a personal permission to the Appellant and her dependant children. The latter have reached adulthood, but other considerations advanced in support of granting a permanent permission for general gypsy and traveller use do not outweigh harm to the Green Belt and other harm. Therefore, the Council found the development in conflict with the Development Plan².
4. It is unclear why The Planning Inspectorate's letter may not have been responded to, but all of the relevant information had been provided in the statement of case.

¹ Appeal ref: APP/H1515/A/01/1056266 and Council ref: BRW/867/2000.

² Saved policies contained in the Brentwood Replacement Local Plan 2005.

Reasons

5. Costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The parties in the proceedings normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
6. The Appellant sought a new planning permission without condition 2) of the 2003 permission. Instead reliance was placed on occupancy being controlled by conformity with the planning policy definition of gypsies and travellers in Annex 1 to *Planning policy for traveller site* 2015. She did not seek a new personal permission naming individuals.
7. The Appellant disagreed with the Council's assessment of the planning merits. Nevertheless, the Council had submitted sufficient oral and written evidence to substantiate its concerns. I am quite satisfied that vague, generalised or inaccurate assertions were not been made about potential effect deleting condition 2) of the 2003 permission would have on matters of acknowledged importance, including spatially designated Green Belt. I have found favour with the Council's arguments and my detailed decision sets out the reasons. I do not consider that the Council's decision to refuse planning permission amounts to unreasonable behaviour.
8. There was significant debate as to the merits of the appeal and, in particular, the other material considerations advanced in support of allowing the appeal. My own analysis is that there are no very special circumstances to allow development. The Council submitted sufficient evidence to substantiate its reason for refusal. I have seen nothing to indicate the Council delayed or prevented development.
9. It is unclear whether The Planning Inspectorate's letter, dated 12 February 2016, had actually been responded to. In any event, the information requested had been supplied orally at the Hearing and in the statements. The submission of late documents did not result in prolonging Hearing time unnecessarily.
10. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs, partial or full, is unjustified in this case.

A U Ghafoor

Inspector